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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/601,399

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Michael V. Solomita JR.

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EXAMINER

WEST, JEFFREY R

ART UNIT

PAPER NUMBER

2857

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/601,399

Applicant(s)

SOLOMITA ET AL.

Examiner

Jeffrey R. West

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawing in Figure 2 is objected to because it does not have sufficiently descriptive labels. Blank boxes in drawings should be labeled descriptively unless it is a well-known component. Specifically, the box "75" should be labeled "Third Party LAN".
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "90" and "95" (Figure 2).
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "37" (page 14, line 12).
4. The drawing in Figure 13 is objected to because the "LCD" screen should be labeled "330" instead of "350" to be consistent with Figure 12.
5. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the

figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following informalities:

On page 13, lines 7-8, both "adapter modules" and "other adapter modules" are labeled "30, 35".

On page 15, line 21, "network 80" should be ---networked sensors 80---.

On page 15, line 23, "network 80" should be ---networked sensors 80---.

On page 24, line 20, the "LCD screen" is labeled "320" instead of "330" as it is labeled on page 24, line 19 and in Figure 12.

On page 25, line 14, the "LCD screen" is labeled "350" instead of "330" as it is labeled on page 25, line 10 and in Figure 12.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-5 and 7-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,538,577 to Ehrke et al. in view of U.S. Patent No. 6,622,097 to Hunter.

Ehrke discloses an electronic electric meter for networked meter reading comprising a communication network accessible by a utility (column 6, lines 38-39), a gateway connecting to the communications network (column 6, lines 40-41), including a microcontroller, inherently with an operating system, (column 10, lines 1-5) at least one application transmitting (column 10, lines 50-52), receiving (column 10, lines 38-39), and processing (column 10, lines 44-49) data through a utility consumption network (column 9, lines 25-29), a device in communication with the utility consumption network, the device consuming units of the resource provided by the utility (column 5, lines 26-34), and an adapter in communication with the device translating data sent to and from the device on the communications network into a protocol for communication with the gateway (column 38-46).

Ehrke discloses that the network comprises a utility meter configured for automatic reading (column 6, lines 32-34) and a utility meter adapter in communication with the utility meter translating a signal containing usage data from the utility meter and transmitting the usage data to the gateway (column 6, lines 35-48).

Ehrke discloses that the gateway is connected to a wide area network to provide access by the utility (column 8, lines 3-6).

Ehrke discloses a computing platform (i.e. data requester of the utility) operatively connected to the wide area network, the gateway configured to send and receive data through the wide area network from the computing platform (column 7, line 56 to column 8, line 6).

Ehrke discloses that the resource provided by the utility is at least one of electric, water, and gas (column 6, line 36).

Ehrke further discloses a method for managing a network comprising receiving a demand-response event requested over a wide area network from the utility to a gateway (column 7, lines 1-8) in communication with a local network (column 7, lines 9-20), forwarding the demand-response event request through the local network to a translator for the operational resource consuming device (column 7, lines 9-20), translating the request into a native format for the operational resource consuming device (column 7, lines 15-20), receiving and storing post demand-response event data from the operational resource consuming device (column 7, lines 20-22 and 56-57 and column 9, lines 30-38), and forwarding the post demand-response event data through the wide area network to the utility (column 7, lines 25-33), the utility analyzing the post demand-response event data (column 1, lines 21-23 and column 9, lines 30-38).

Ehrke discloses translating usage data from a utility meter into a protocol for communication with the gateway (column 7, lines 16-22) and transmitting the usage data periodically through the wide area network for the utility (column 7, lines 34-55).

As noted above, the invention of Ehrke teaches many of the features of the claimed invention and while Ehrke does teach a gateway for connection to the utility and meter for transmitting usage data there-between, Ehrke does not specify that the gateway be a mobile device for allowing the user to control the meter based on the usage data for cost efficiency. Ehrke also does not specify that the control be for controlling a thermostat as part of a climate-control device.

Hunter teaches a method and apparatus for reading and controlling electric power consumption comprising a gateway control device that is portable (column 5, lines 17-23 and column 7, lines 30-35), includes a graphical user interface (column 6, lines 50-64) and a user interface control mechanism for selecting portions of the user interface (i.e. mouse pointer) (Figure 6 and column 7, lines 30-35) in order to initiate a state change of the operational resource consuming device (column 7, lines 56-63) for cost efficiency (column 8, lines 18-26). Hunter teaches that the control device controls the consumption of units of resource provided by a utility (column 7, lines 64-65). Hunter also teaches that the device is a thermostat for monitoring ambient temperature in communication with a climate control unit in communication with a communication network (column 7, line 64 to column 8, line 7) whereby the thermostat transmits temperature data to the gateway (i.e. end-user interface) (column 8, lines 14-16 and 34-42) and receives command signals from the gateway

to the climate control unit to heat or cool the ambient airspace by receiving operational data from the resource consuming device comparing the data to a rules set (i.e. baseline levels) and transmitting a state change command to the resource consuming device when a rule is satisfied (column 7, line 64 to column 8, line 7).

It would have been obvious to one having ordinary skill in the art to modify the invention of Ehrke to include specifying that the gateway is a mobile device for allowing the user to control the metered utility based on the usage data for cost efficiency, as taught by Hunter, because as suggested by Hunter, the combination would have reduced the burden of a user by allowing the user to access information at any convenient location as well as control the utility consuming devices in order to obtain desired settings while maximizing cost effectiveness and reducing utility waste through power conservation of a common utility consuming device, such as a climate control device (column 8, lines 8-16 and 34-42).

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ehrke in view of Hunter and further in view of U.S. Patent No. 5,696,695 to Ehlers et al.

As noted above, the invention of Ehrke and Hunter teaches many of the features of the claimed invention and while the combination does teach providing a graphical user interface for control of a consumption device, the combination does not specifically provide a menu and button driven interface.

Ehlers teaches a system for rate-related control of electrical loads including a menu and button driven graphical user interface (column 14, lines 38-56 and Figures 11-15).

It would have been obvious to one having ordinary skill in the art to modify the invention of Ehrke and Hunter to specifically provide a menu and button driven interface, as taught by Ehlers, because Ehlers suggests a common user-friendly interface that would have allowed the user to control desired devices without requiring complex programming knowledge (column 14, lines 38-56).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure:

U.S. Patent No. 6,487,457 to Hull et al. teaches a database for a remotely accessible building information system.

U.S. Patent Application Publication No. 2003/0009401 to Ellis teaches a computerized utility cost estimation method and system.

U.S. Patent No. 6,751,563 to Spanier et al. teaches an electronic power meter.

U.S. Patent No. 5,818,725 to McNamara et al. teaches a system for utility demand monitoring and control.

Gulf Power Company Conservation Plan teaches a system for remote customer control of electricity consumption devices of heating and cooling systems.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. West whose telephone number is (571)272-2226. The examiner can normally be reached on Monday through Friday, 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571)272-2216. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jrw
December 5, 2004


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